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VIA ECF

Hon. James M. Wicks
EDNY Magistrate Judge
100 Federal Plaza, Courtroom: 1020
Central Islip, NY 11722,

Re: Rodriguez, v. Williams-Sonoma, Inc., Civil Action No.: 22-cv-02436-GRB-JMW

Dear Judge Wicks,

We represent Defendant Williams-Sonoma, Inc. (“Defendant” or “Williams-Sonoma”) in the above-referenced matter. We write in response to Plaintiff Gabriel Rodriguez’s (“Plaintiff”) letter dated August 8, 2022 (Dkt. 25), in which Plaintiff purports to “update” Your Honor concerning Defendant’s pending Motion to Stay Discovery. In that letter, Plaintiff contends that following the August 5, 2022 Pre-motion Conference with Judge Brown, “Defendant’s chances of success in obtaining dismissal of this action are very remote and discovery should be allowed to proceed.” *Nothing could be further from the truth.* Rather, the Pre-motion Conference confirmed that Williams-Sonoma’s request for a temporary stay of discovery is well warranted under the circumstances of this litigation.

During the Pre-motion Conference, Judge Brown not only granted Defendant leave to file a motion to dismiss with respect to Defendant’s argument that Plaintiff’s Complaint should be dismissed in its entirety because NYLL § 191 does not provide a private cause of action where the plaintiff, as here, does not have a claim for unpaid wages, but Judge Brown also stated that Defendant’s argument presents “an interesting issue,” and that the forthcoming Motion to Dismiss will be a “horse race.” *See* Transcript of August 5, 2022 Pre-motion Conference at pp. 13-14, attached hereto as Exhibit A. He explained, “And what I’m going to say to you all is I’m going to need you to brief that one for sure . . . Because we’ve got to look at that . . . it does sound to me like an interesting issue and I’m happy to take a look at it. *Id.* Had Judge Brown concluded that Plaintiff has a private right of action, or that he was bound to follow any other Court (which he is not), he would have ruled as such at the Pre-motion Conference. *Id.* at 21-22 (ruling on other aspects of Defendant’s letter). Judge Brown also previewed Defendant’s argument as a “problem” for Plaintiff. *Id.* at 10 (commenting to Plaintiff’s counsel “[t]hat’s not to say that certain problems aren’t coming” directly before addressing private cause of action argument). As such, Defendant’s chances of success in obtaining dismissal of the entire action are *the opposite* of “very remote,” as Plaintiff disingenuously contends.

Judge Brown’s ruling, after hearing argument from counsel for both Plaintiff and Defendant, confirms that Defendant’s motion is not “unfounded in the law,” and therefore that Defendant has

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satisfied its burden at this stage to obtain a temporary stay of discovery.¹ *See Negrete v. Citibank, N.A.*, No. 15 Civ. 7250, 2015 WL 8207466, at *1 (S.D.N.Y. Dec. 7, 2015) (citation omitted); *Niv v. Hilton Hotels Corp.*, No. 06-cv-7839, 2007 WL 510113, at *2 (S.D.N.Y. Feb. 15, 2007) (staying discovery and explaining that while “it would be premature for the Court to explore the merits of the defendants’ proposed motion...the Court does note, based on a discussion with counsel at a pre-motion conference, that at this stage the defendants’ motion appears not to be unfounded in the law.”). Moreover, the motion to dismiss will be fully briefed in the next two months (*see* Dkt. 24), so any stay will be of a very limited duration.

For the reasons stated above and set forth in Defendant’s Motion to Stay (Dkt. 18-19), Williams-Sonoma respectfully requests that this Court grant its motion temporarily staying all discovery in this litigation pending resolution of Williams-Sonoma’s Motion to Dismiss.

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By: /s/ Ashley J. Hale

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¹ As detailed in Defendant’s Motion to Stay (Dkt. 18-19), the two other factors that courts consider in determining whether a stay of discovery is warranted also weigh in favor of the Court granting Williams-Sonoma’s Motion to Stay: (1) Plaintiff will not be prejudiced by a temporary stay; and (2) discovery will be broad and burdensome to Defendant (in a matter that may be dismissed in its entirety after the motion to dismiss is decided).